

Message Text

PTQ5851

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ACTION EAP-01

INFO LOG-00 AID-01 CEA-01 CIAE-00 COME-00 CTME-00 OASY-00
DINT-01 DODE-00 ITCE-00 EB-01 EXME-00 E-00 FRB-01
H-01 TEDE-00 INR-00 ITC-01 L-01 ADS-00 NSAE-00
NSCE-00 OES-09 OMB-01 OPIC-01 SNP-00 SP-00 SSO-00
SS-00 STR-01 TRSE-00 USIE-00 DRL-09 G-00 /030W
-----925CDC 140233Z /38

R 170222Z DEC 110
FM AMEMBASSY ULAANBAATAR
TO SECSTATE WASHDC 0010

UNCLAS SECTION 01 OF 02 ULAANBAATAR 000009

E.O. 12356: N/A
TAGS: EINV, EMIN, MG
SUBJECT: NEW MONGOLIAN LAW ON MINERAL RESOURCES

REF: ULAANBAATAR 2592

1. THE AUTUMN SESSION OF THE GREAT HURAL PASSED A NEW LAW
GOVERNING EXPLORATION AND MINING OF MONGOLIAN MINERAL
RESOURCES. THE LAW TAKES EFFECT ON JANUARY 1 BUT HAS
ALREADY BEEN THE SOURCE OF SOME CONSTERNATION AND
MISUNDERSTANDING ON THE PART OF MINING COMPANIES (REFTEL).

2. THE MAJOR PROVISIONS OF THE NEW LAW ARE AS FOLLOWS:

-- MINERAL RESOURCES ARE THE PROPERTY OF THE STATE WHICH
MAY AWARD (SEPARATE) LICENCES FOR THEIR EXPLORATION AND
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EXTRACTION

-- THE CENTRAL STATE ADMINISTRATION ORGANIZATION
WILL ISSUE LICENCES, MONITOR RELEVANT ACTIVITIES, AND KEEP
MINERAL RECORDS

-- LICENCE APPLICATIONS REQUIRE FEASIBILITY STUDIES,
ENVIRONMENTAL IMPACT STATEMENTS, AND PLANS FOR LIMITING
ADVERSE ENVIRONMENTAL EFFECTS.

-- LICENCES MAY BE ISSUED THROUGH A TENDER IF EXPLORATION HAS
BEEN DONE WITH STATE FUNDS OR IF TWO OR MORE ENTITIES ARE
SEEKING RIGHTS WITHIN THE SAME AREA.

-- NO SINGLE ENTITY MAY RECEIVE MORE THAN FIVE LICENCES FOR
MINING OF DEPOSITS, ALTHOUGH MORE LICENCES ARE PERMITTED TO
ENTITIES WHICH ARE ONLY INVOLVED IN EXPLORATION ACTIVITIES.

-- THE GOVERNMENT MAY BE A PARTNER IN A PROJECT BY SO
DECLARING PRIOR TO THE ISSUANCE OF A LICENCE FOR A GIVEN
AREA.

-- A LICENCE HOLDER MAY SUB-LET PART OF THE RIGHTS BUT MAY
NOT TRANSFER THE LICENCE WITHOUT GOVERNMENT
AUTHORIZATION.

-- EXPLORATION LICENCES ARE VALID FOR THREE YEARS BUT MAY BE
SUBJECT TO TWO EXTENSIONS OF TWO YEARS EACH, THOUGH THE
TOTAL PERIOD OF EXPLORATION AND EXTRACTION OF RESOURCES
MAY NOT EXCEED TWENTY YEARS.

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-- EXPLORATION BLOCKS MAY BE NO SMALLER THAN 8 SQ KM AND NO
MORE THAN 4000 SQ KM. HOWEVER, AN ENTITY MAY APPLY FOR
LICENCES COVERING ADJACENT AREAS.

-- EXPLORATION MUST BEGIN WITHIN 180 DAYS OF THE AWARD OF THE
LICENCE.

-- EXPLORATION LICENCE HOLDERS MAY TRANSIT OTHER BLOCKS IN
ORDER TO HAVE ACCESS TO THEIR OWN, INSTALL EQUIPMENT AND
CONSTRUCT NECESSARY INFRASTRUCTURE TO CARRY OUT THEIR
WORK, AND PERFORM ANALYSIS ON SAMPLES. THE LICENCE HOLDER
MAY REMOVE SAMPLES ON THE PRESENTATION OF DOCUMENTATION.

-- EXPLORATION LICENCE HOLDERS MUST BEGIN EXPLORATION

WITHIN 180 DAYS OF THE LICENCE AWARD, FULFILL ENVIRONMENTAL REQUIREMENTS AND RESTORE THE AREA ON COMPLETION OF WORK, USE MODERN TECHNOLOGY, REPORT ON EXPLORATORY WORK IN A TIMELY MANNER, AND TRANSFER RESOURCE SAMPLES TO APPROPRIATE ORGANIZATIONS AT THE REQUEST OF THE GOM.

-- EXPLORATION LICENCE HOLDERS MAY NOT MINE, PROCESS, OR SELL RESOURCES WITHOUT OBTAINING A SEPARATE LICENCE FOR THAT ACTIVITY.

-- THE GOM MAY DETERMINE THE MINIMUM AMOUNT OF EXPLORATION INVESTMENT, AND A DEPOSIT OF 10 PERCENT OF A GIVEN YEAR'S EXPENSES MUST BE PROVIDED AS A GUARANTEE OF COMPLETION. (NOTE: THIS MINIMUM AMOUNT WILL BE SET BY THE MINISTRY OF GEOLOGY AND MINERALS AND HAS YET TO BE DETERMINED. END NOTE.)

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-- LICENCE HOLDERS WILL SUBMIT TO THE GOM AN ESTIMATE OF THE RESERVES AND WILL REPORT PERIODICALLY ON EXPLORATION PROGRESS.

-- THE GOM MAY FREEZE EXPLORATORY WORK FOR UP TO 90 DAYS IF THE LICENCE HOLDER IS FOUND TO BE IN VIOLATION OF THE TERMS OF THE LICENCE. IF THE VIOLATION IS NOT CORRECTED, THE GOM MAY CANCEL THE LICENCE WITH THE HOLDER LIABLE FOR DAMAGES. THE LICENCE HOLDER MAY TAKE LEGAL ACTION IN CASE OF DISPUTE.

-- A LICENCE HOLDER MAY CANCEL THE LICENCE BY GIVING NOTICE TO THE GOM AND SHOWING THAT THERE IS NO FURTHER FINANCIAL OBLIGATION. UNLESS, WITHIN 60 DAYS OF NOTIFICATION, THE GOM FINDS REASON TO OPPOSE THE CANCELLATION, IT WILL TAKE EFFECT NO LATER THAN THE END OF THAT PERIOD.

-- THE EXPLOITATION LICENCE WILL PROVIDE FOR A FEE OF 1.5-12.5 PERCENT OF THE PROCEEDS OF SALE.

-- THE ENTITY GRANTED A LICENCE TO MINE MAY UNDERTAKE NECESSARY OPERATIONS (INCLUDING ADDITIONAL EXPLORATION),

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SSO-00 SS-00 STR-01 TRSE-00 USIE-00 DRL-09 G-00
/030W

-----925CEA 140233Z /38

R 170222Z DEC 110
FM AMEMBASSY ULAANBAATAR
TO SECSTATE WASHDC 0011

UNCLAS SECTION 02 OF 02 ULAANBAATAR 000009

E.O. 12356: N/A
TAGS: EINV, EMIN, MG
SUBJECT: NEW MONGOLIAN LAW ON MINERAL RESOURCES

EXTRACT AND OWN THE RESOURCES IN CONFORMANCE WITH THE
TERMS OF THE LAW, AND SUB-CONTRACT, AS NEEDED. THE AWARDED
RIGHTS MAY NOT BE SUB-LEASED.

-- THE MINING ENTITY MUST START PRE-EXPLOITATION ACTIVITIES
WITHIN A YEAR OF RECEIVING THE LICENCE AND BEGIN PRODUCTION
WITHIN FIVE YEARS, ALTHOUGH AN EXTENSION MAY BE PERMITTED.

-- IF ACTIVITY IS HALTED FOR A CONTINUOUS PERIOD OF TWO YEARS,
THE LICENCE BECOMES VOID.

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-- THE LICENCE HOLDER IS OBLIGATED TO PROVIDE NECESSARY SECURITY TO SAFEGUARD THE RESOURCES AND TO FOLLOW RULES ON OCCUPATIONAL SAFETY AND HEALTH.

-- FINES OF UP TO 25,000 TG (\$62) MAY BE LEVIED AND PROPERTY CONFISCATED FOR WORK PERFORMED WITHOUT A LICENCE, FAILURE TO PROVIDE REPORTS OR SAMPLES, ENVIRONMENTAL DAMAGE, OR OTHER VIOLATIONS.

3. THE ABOVE INFORMATION IS PROVIDED BASED ON AN INFORMAL EMBASSY TRANSLATION OF THE LAW. THE MINISTRY OF GEOLOGY AND MINERALS INTENDS TO PRODUCE AN OFFICIAL ENGLISH-LANGUAGE TRANSLATION, BUT THAT IS LIKELY TO BE WEEKS OR MONTHS AWAY. EMBASSY IS POUCHING A COPY OF ITS INFORMAL TRANSLATION TO EAP/CM.

4. COMMENT. IN OUR NON-TECHNICAL VIEW, THE LAW APPEARS REASONABLY BALANCED BETWEEN THE NEED TO BRING IN FOREIGN INVESTMENT AND THE GOVERNMENT'S INTEREST IN DERIVING THE MOST FOR ITS RESOURCES. IT CERTAINLY DOES NOT GIVE MINING COMPANIES CARTE BLANCHE, WHICH IS WHAT SOME WERE SEEKING. (ONE FIRM SAID THAT THE GOM SHOULD BE SATISFIED WITH MINING COMPANIES' INFRASTRUCTURE IMPROVEMENTS AND NOT SEEK ANY ROYALTIES ON PRODUCTION.) HOWEVER, THE GOM HAD ENOUGH DIFFICULTY GETTING THIS LAW THROUGH IN VIEW OF HARDLINE OPPONENTS WHO STILL SEEM TO BELIEVE THAT ALL OF THE RESOURCES OF MONGOLIA SHOULD BE RESERVED FOR THE MOTHERLAND.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 17 DEC 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973ULAANB00009
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Film Number: n/a
From: ULAANBAATAR
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731258/dccigabe.tel
Line Count: 305
Locator: TEXT ON-LINE
Office: ACTION EAP
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: ULAANBAATAR 2592
Review Action: RELEASED, APPROVED
Review Authority: kelleyw0
Review Comment: n/a
Review Content Flags:
Review Date: 08 NOV 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08-Nov-2001 by morefirh>; APPROVED <19 MAR 2002 by kelleyw0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> rlb 960919; eyj 19990413
Subject: NEW MONGOLIAN LAW ON MINERAL RESOURCES
TAGS: EINV, EMIN, MG
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005